

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte Dettinger et al.

Appeal No. _____

Serial No.: 09/871,929
Filed: June 1, 2001
Group Art Unit: 2145
Examiner: Adnan M. Mirza
Applicant: Dettinger et al.
Title: PERVASIVE, DISTRIBUTED PROVISION OF
SERVICES SUCH AS PRODUCT BROKERAGE

Cincinnati, Ohio 45202

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Via EFS-WEB

APPEAL BRIEF

This brief is in furtherance of Applicant's Notice of Appeal filed June 8, 2006,
appealing the decision of the Examiner dated March 9, 2006 finally rejecting claims 1-64. A
copy of the claims appears in the Appendix to this brief.

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/Thomas W. Humphrey/ October 2, 2006
Thomas W. Humphrey Date
Reg. No. 34,353

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Real Party In Interest

The real party in interest in this appeal is INTERNATIONAL BUSINESS MACHINES CORPORATION, a corporation of New York having a place of business at New Orchard Road, Armonk, New York 10504.

Related Appeals and Interferences

There are no such appeals or interferences.

Status of Claims

Claims 1-64 stand rejected as unpatentable over Taylor et al. combined with Narin et al. Claims 1-64 were originally filed with the application and have not been amended.

(NOTE: The Examiner's action states in the summary that claims "1-69" are rejected but there are only 64 claims and rejections have been specifically identified for only claims 1-64.)

Status of Amendments

There are no amendments pending.

Summary of Claimed Subject Matter

The present invention is directed to the provision of a service from a server computer, such as seen at 12 in Fig. 1, to a client computer, such as seen at 16a-16e in Fig. 1. As is notable from Fig. 1, the client may have different capabilities or management needs. The method involves delivering appropriate executable code from a server to the client, and/or relates to the execution of appropriate code by the server. The method further involves management of executable code by the client.

Independent claims 1, 12 and 15 relate to a method in which a server will "identify[] factors relevant to provision of [an] information handling capability by [a] client computer", then the server will "select[] one of at least a first and a second service to be uploaded" (the services "comprising different executable code"), and finally, the server will "deliver[the] selected service to [the] client computer". These operations are disclosed in Fig. 2 at steps 70, 72 and 74 (described in pages 11-12 et seq.). The following steps involve the actual delivery of a service to a client based upon the "client factors" determined in step 72. These claims are presented in method, apparatus and program product form, and do not include "means" language elements.

Independent claims 20, 31 and 34 relate to "performing an analysis of usage of said information handling capability by said client computer system to determine whether said executable code ought to be retained in storage...". This process is illustrated in Fig. 4, steps 144 and 146 and discussed at page 16. This analysis enables the client to maintain only that downloaded software likely to be of future use. These claims are presented in method, apparatus and program product form, and do not include "means" language elements.

Independent claims 39, 48 and 49, relate to "receiving from a server computer system, state information relating to a prior interaction of [a] client computer system and server computer system". This is illustrated in Fig. 2 at steps 88 and 90 and discussed in the paragraph bridging pages 13 and 14. These claims are presented in method, apparatus and program product form, and do not include "means" language elements.

Independent claims 52, 61 and 62 relate to a server that will "select, in response to a request to provide an information handling capability by a client computer system, a service to be executed by said server computer system, from at least first and second services available to said server...", and then "executing ... code in [the] selected service." This is shown at step 74 of Fig. 2 and discussed at page 12. These claims are presented in method, apparatus and program product form, and do not include "means" language elements.

Grounds of Rejection

The grounds of rejection presented for review are the rejection of all of claims 1-64 as unpatentable over Taylor et al. combined with Narin et al. As to each claim a rejection has been entered over the combination of Taylor et al. combined with Narin et al. (NOTE: The Examiner's action states in the summary that claims "1-69" are rejected but there are only 64 claims and rejections have been specifically identified for only claims 1-64.)

Argument

Applicant will first discuss the Taylor and Narin prior art and then compare that prior art to the rejected claims.

Taylor

Taylor et al. is, at best, only marginally relevant to the present application. Taylor et al. discloses a "modular storage server architecture for retrieving data in response to user access requests. In particular, [Taylor] relates to a server architecture in which data is dynamically distributed over a plurality of disks, and data access requests are assigned to particular processors in order to provide good data access performance and server fault tolerance." Taylor, page 1, paragraph 0002.

Taylor has relevance to the present invention only in that Taylor's storage scheme might be usable to store information in a server of the kind that delivers executable code to clients. However, with respect to each of the claimed aspects outlined above, Taylor does not disclose the claimed concepts, as will be detailed below.

Narin

Narin discloses a web scripting service manager having several components that interoperate to provide enhanced functions to web pages, with browser-brand independence. As best seen in Narin's Figs. 6A and 6B, these components include a browser scripting space, including a script wrapper 197, a connector object 194, a service manager 190, and various service objects.

In the Narin scheme, a browser on a client computer receives an HTML document and executes a script that is delivered with the HTML (as noted at col. 13, lines 25-31). The instructions of the script are browser-brand independent (see col. 7, lines 8-9). However, included within the script is a script wrapper 197, the function of which is detailed in Fig. 8A. As seen there, the script wrapper includes IF-THEN-ELSE, CASE, or SWITCH style logic statements that recognize the brand of the browser in use and activate a browser-brand-specific service request to a browser-brand-specific connector object. The connector objects are different for different browser brands; as seen in Fig. 8A the connector object may be an ActiveX control (typical of Microsoft Internet Explorer) or a plug-in (typical of Netscape Navigator). The connector object delivers service requests to the service manager 190, which is browser-brand independent code providing additional functions for a web page (see col. 3, lines 55-57). The service manager also provides event management to deliver brand-independent events to the brand-specific connector object and from there to a brand-specific event handler in the script wrapper 197, as illustrated in Fig. 8B.

Narin indicates that this structure is to be preferred to the prior art because: (1) most of the script and the code of the service manager and service objects is brand-independent (see col. 7 lines 7-16), (2) the service objects may persist and maintain state from one browser session to another or from a session in one browser brand to a session in another browser brand (see col. 6 line 65 - col. 7 line 1), potentially reducing initialization time or bandwidth use, or potentially avoiding the need for a user to repeatedly log-in to a secure service (see col. 2 line 65 - col. 3 line 5). The service manager persists even when a browser is closed, for a predetermined time such as a half-hour as stated at col. 11, lines 1-3.

Independent Claims 1, 12 and 15

Comparing Taylor Narin to the language of these claims currently under rejection, a number of striking differences are evident.

First, with respect to claims 1, 12 and 15, these claims relate to a method performed "at a server", or to "a server" per se or a program product "for a server", in which the server will "identify[] factors relevant to provision of [an] information handling capability by [a] client computer", then "select[] one of at least a first and a second service to be uploaded" and finally, "deliver[the] selected service to [the] client computer". Neither Taylor nor Narin disclose anything like this.

The Examiner has cited to Page 8, paragraph 0077 of Taylor, which describes a server that may store "trick play", i.e., fast forward or rewind, video information, as well as normal "play" video information. The Examiner apparently has cited this because it at least shows two types of information are delivered by the server to a client. However, as the Examiner admits, Taylor is not disclosing that different executable code is being delivered to a client, nor is Taylor disclosing selection between different executable code services based upon client factors.

The Examiner posits that these gaps are filled by Narin. But Narin does not disclose delivery of different code services either. Narin discloses that an adaptation to browser brand is made by coding the script delivered to the browser to include different functions for different brands, as is made clear by Fig. 8A of Narin. Narin, therefore, does not select or make any decisions at the server relating to browser brand, but provides "script wrapper" code that defers those decisions to be made by the client. Further, Narin downloads the same script

for all brands; there is no "selecting" of a script to upload or "delivering" a selected script. Also, while Narin downloads different connector objects for different browser brands, there is nothing in Narin that suggests that the server selects which connector object to send to a client. Indeed, one stated intention of Narin is that a client could use "different browsers" (col. 6, lines 14-17 and col. 6 line 65 - col. 7 line 1); to facilitate this each of the available connector objects would need to be forwarded to the client – and obviously to do this the sever could not be selecting only one connector object to deliver.

A combination of Taylor and Narin would not, therefore, lead to the invention of independent claims 1, 12 and 15. At best, this combination would lead to the Narin common script being stored and delivered by the Taylor server, not the formation of and selection between more than one script, which neither reference suggests.

The Examiner's Final Rejection has cited page 2, paragraph 0024 of Taylor for the proposition that Taylor's server retrieves requested data from the disk drives in the server, and outputs it for distribution. This may be so, but it is irrelevant. Taylor has no function to retrieve and output information that is different based upon a client's profile or functionality as claimed.

While these clear distinctions of independent claims 1, 12 and 15 obviate any possible rejection of claims 1-19, some additional comments on the Examiner's rejections of dependent claims are in order.

Regarding claims 3, 14 and 17, the Examiner has misstated the disclosure of Narin. There is no disclosure at col. 6 line 65 - col. 7 line 15 of a server using any factors to determine a service to upload, nor is there any disclosure of the particular factors of "operating

system", "bandwidth", "date and/or time of day", "cost" or "location" — the only compatibility issue discussed by Narin is browser brand; and, browser brand differences are not handled by the server, as noted.

Regarding the Examiner's remarks on claims 4, 23, 40 and 53, and 5, 24, 41 and 54, Applicant is at a loss to find any discussion of brokerage information at Narin col. 7 lines 1-15 or col. 6, lines 65-67.

Regarding the Examiner's remarks on claims 6, 25, 42 and 55 and 7, 26, 43 and 56, and 8, 27, 44 and 57, Applicant cannot see any mention of real estate or chattel property, or an automobile, in Taylor at page 6, paragraph 0056.

Regarding the Examiner's remarks on claims 10, 29, 46 and 59, and 11, 30, 47 and 60, Applicant cannot see any mention of financial information or transportation service information in Taylor page 6, paragraph 0056.

Independent Claims 20, 31 and 34

Regarding claims 20, 31 and 34, the Examiner's rejection is again based upon a combination of Narin and Taylor, relying upon that part of Narin at col. 9, lines 30-39 that states the function of a script wrapper, and relying upon Taylor for showing "performing an analysis of usage of said information handling capability by said client computer system to determine whether said executable code ought to be retained in storage...". Applicant submits this rejection is clearly in error.

Firstly, Narin clearly states that service manager 190 terminates based upon a thirty minute timer, not "based upon usage" as in the claimed approach. Second, Taylor at page 7,

paragraph 0073 describes only storage management in a server, not in a client. Thus, Narin is not what is claimed and Taylor simply does not relate to the claimed invention.

Responding to these points, the Examiner's Final Rejection cites Taylor at page 2, paragraph 0050, for disclosing a server that evaluates "provisioning, QoS and/or bandwidth availability information to responsively determine an appropriate latency masking and/or client message strategy". This may be so but it is irrelevant – none of these factors relate to whether the client should retain code or discard it, or even relate to retention by the client at all.

As this disposes of the Examiner's rejection of the independent claims 20, 31 and 34, all of claims 20-38 are clearly allowable. However, with respect to the Examiner's rejection of dependent claims 21, 32 and 35, and 22, 33 and 36, the Examiner again relies on Taylor's paragraph 0077 which does not relate to evaluating use/disuse or connectivity at a client computer, and thus these rejections are inappropriate.

Independent claims 39, 48 and 49

As to claims 39, 48 and 49, the Examiner's rejection relies again upon Narin's disclosure at col. 9, lines 30-39 of a "script wrapper" and its functions, and relies upon Taylor for disclosing "receiving from a server computer system, state information relating to a prior interaction of [a] client computer system and server computer system". While Narin does describe initializing an object that "needs to accumulate some state before it is operational" (col. 3, lines 2-3), there is no mention that this initializing process includes receiving "information relating to a prior interaction of [a] client computer system and server computer

system"; rather, Narin's examples are "when connection to a server is required, when initialization procedures consume too much time, power or bandwidth, when user authentication via password is required." Furthermore, Taylor page 7, paragraph 0073 in no way relates to a client's management of its states, but rather with the storage of data in primary or secondary storage of a server.

The Examiner, responding in his Final Rejection, has quoted from Taylor at page 5, paragraph 0052, to the effect that Taylor's server "implements a level of filtering of received content to a server-specific evaluation of the importance of the pushed content made according to the needs and/or preferences of the subtended customers" This may be so, but it is not relevant because it does not relate to the saving of state information by the server or delivery of state information from the server to the clients – it is not about state information but rather about prioritization of data being pushed to clients – a completely different issue.

Narin and Taylor are thus clearly distinct from independent claims 39, 48 and 49, and Applicant submits that all of claims 39-51 are allowable.

Independent Claims 52, 61 and 62

The Examiner's rejection of independent claims 52, 61 and 62 also rely upon Narin's discussion in column 9 of a "script wrapper", and upon Taylor. Narin does not disclose a server that will "select, in response to a request to provide an information handling capability by a client computer system, a service to be executed by said server computer system, from at least first and second services available to said server..." (Emphasis added). The concept of a server selecting what to execute is simply not found in Narin. As noted above with reference

to Narin's Fig. 8A, a "script wrapper" is executed by the client and used to select which of two possible connector objects the client should execute, so that the client can subsequently execute a service object via a service manager. Clearly, there is no selection by the server of which service to execute. Indeed, a point of the Narin structure is to make the software, as much as possible, browser-brand independent, i.e., "[t]he developer of services thus only needs to provide the service itself in the form of a COM object without worrying about browser specific issues."

Taylor page 7, paragraph 0073 relates only to the management of data between primary and secondary storage on a server, not to selection and delivery of different services for a client.

In his Final Rejection the Examiner has cited to Narin at col. 9, lines 30-39, for disclosure that Narin discloses script wrappers that "allow[] script to be written without regard to different browser brands". This may be so but, as noted, the server does not select the service to execute; rather, the client receives the script wrapper and uses it to select possible connector objects and take subsequent steps.

As Narin and Taylor are thus clearly distinct from independent claims 52, 61 and 62, Applicant submits that all of claims 52-64 are allowable.

Conclusion

Accordingly, Applicant submits that the Examiner's rejection is in error and a reversal of the rejection and allowance of the claims is therefore requested.

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Claim Appendix

1. (Original) A method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprising the following steps performed at a server computer system:

identifying factors relevant to provision of said information handling capability by said client computer,

selecting one of at least a first and a second service to be uploaded to said client computer based upon said factors, said first and second services comprising different executable code for providing said information handling capability, and

delivering said selected service to said client computer system, so that said information handling capability may be realized by said client computer upon execution of code within said selected service at said client computer system.

2. (Original) The method of claim 1 wherein said services comprise data in addition to executable code.

3. (Original) The method of claim 1 wherein said factors comprise one or more of:

the operating system used by said server computer system,

the operating system used by said client computer system,

the bandwidth of a communications connection between said client and server computer system,

the date and/or time of day,

the cost of a communications connection between said client and server computer system, and

the location of said client and/or server computer system.

4. (Original) The method of claim 1 wherein said information handling capability comprises providing brokerage information to a user of said client computer system

5. (Original) The method of claim 4 wherein said brokerage information comprises product information and pricing.

6. (Original) The method of claim 5 wherein said product is real estate property.

7. (Original) The method of claim 5 wherein said product is chattel property.

8. (Original) The method of claim 7 wherein said product is an automobile.

9. (Original) The method of claim 1 wherein said information handling capability comprises providing scheduling information to a user of said client computer system

10. (Original) The method of claim 1 wherein said information handling capability comprises providing financial information to a user of said client computer system

11. (Original) The method of claim 1 wherein said information handling capability comprises providing transportation service information to a user of said client computer system

12. (Original) A server in a networked computer system comprising client and server computer systems, said server comprising

a processor,

a communications interface for connecting to a client computer system,

and

storage for executable code,

said processor executing said executable code to provide an information handling capability to a client computer system by the steps of identifying factors relevant to provision of said information handling capability by said client computer, selecting one of at least a first and a second service to be uploaded to said client computer based upon said factors, said first and second services comprising different executable code for providing said information handling capability, and delivering said selected service to said client computer system, so that said information handling capability may be realized by said

client computer upon execution of code within said selected service at said client computer system.

13. (Original) The server of claim 12 wherein said services comprise data in addition to executable code.

14. (Original) The server of claim 12 wherein said factors comprise one or more of:

- the operating system used by said server computer system,
- the operating system used by said client computer system,
- the bandwidth of a communications connection between said client and server computer system,
- the date and/or time of day,
- the cost of a communications connection between said client and server computer system, and
- the location of said client and/or server computer system.

15. (Original) A program product for a server in a networked computer system comprising client and server computer systems, the program product comprising executable code for providing an information handling capability to a client computer systems by the steps of identifying factors relevant to provision of said information handling capability by said client computer, selecting one of at least a first and a second service to be uploaded to said client computer based

upon said factors, said first and second services comprising different executable code for providing said information handling capability, and delivering said selected service to said client computer system, so that said information handling capability may be realized by said client computer upon execution of code within said selected service at said client computer system, and
a computer-readable media storing the executable code.

16. (Original) The program product of claim 15 wherein said services comprise data in addition to executable code.

17. (Original) The program product of claim 15 wherein said factors comprise one or more of:

the operating system used by said server computer system,
the operating system used by said client computer system,
the bandwidth of a communications connection between said client and server computer system,
the date and/or time of day,
the cost of a communications connection between said client and server computer system, and
the location of said client and/or server computer system.

18. (Original) The program product of claim 15 wherein said media comprises a transmission type media.

19. (Original) The program product of claim 15 wherein said media comprises a storage media.

20. (Original) A method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprising the following steps executed at a client computer system:

storing executable code for providing said information handling capability,

performing an analysis of usage of said information handling capability by said client computer system to determine whether said executable code ought to be retained in storage by said client computer system, and

in response to a determination that said executable code ought not be retained by said client computer system, unloading said executable code from storage in said client computer system.

21. (Original) The method of claim 20 wherein said analysis comprises determining a period of disuse of said information handling capability by said client computer system.

22. (Original) The method of claim 20 wherein said analysis comprises determining the presence of a connection between said client computer system

and a server computer system involved in provision of said information handling capability.

23. (Original) The method of claim 20 wherein said information handling capability comprises providing brokerage information to a user of said client computer system

24. (Original) The method of claim 23 wherein said brokerage information comprises product information and pricing.

25. (Original) The method of claim 24 wherein said product is real estate property.

26. (Original) The method of claim 24 wherein said product is chattel property.

27. (Original) The method of claim 26 wherein said product is an automobile.

28. (Original) The method of claim 20 wherein said information handling capability comprises providing scheduling information to a user of said client computer system

29. (Original) The method of claim 20 wherein said information handling capability comprises providing financial information to a user of said client computer system

30. (Original) The method of claim 20 wherein said information handling capability comprises providing transportation service information to a user of said client computer system

31. (Original) A client computer system in a networked computer system comprising client and server computer systems, comprising:

- a processor,
- storage for executable code, and
- a communications interface for connecting to a server computer system,

said processor executing said executable code to provide an information handling capability in conjunction with a server computer system, and further performing an analysis of usage of said information handling capability by said client computer system to determine whether said executable code ought to be retained in storage by said client computer system, and, in response to a determination that said executable code ought not be retained by said client computer system, unloading said executable code from storage in said client computer system.

32. (Original) The client computer system of claim 31 wherein said analysis comprises determining a period of disuse of said information handling capability by said client computer system.

33. (Original) The client computer system of claim 31 wherein said analysis comprises determining the presence of a connection between said client computer system and a server computer system involved in provision of said information handling capability.

34. (Original) A program product for a client in a networked computer system comprising client and server computer systems, the program product comprising
executable code for causing a client computer system to provide an
information handling capability, and executable code for performing an analysis
of usage of said information handling capability by said client computer system
to determine whether said executable code ought to be retained in storage by
said client computer system, and, in response to a determination that said
executable code ought not be retained by said client computer system, unloading
said executable code from storage in said client computer system, and
a computer-readable media storing the executable code.

35. (Original) The program product of claim 34 wherein said analysis comprises determining a period of disuse of said information handling capability by said client computer system.

36. (Original) The program product of claim 34 wherein said analysis comprises determining the presence of a connection between said client computer system and a server computer system involved in provision of said information handling capability.

37. (Original) The program product of claim 34 wherein said media comprises a transmission type media.

38. (Original) The program product of claim 34 wherein said media comprises a storage media.

39. (Original) A method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprising the following steps executed at a client computer system:

- receiving from a server computer system, executable code for providing said information handling capability,

- receiving from a server computer system, state information relating to a prior interaction of said client computer system and server computer system,

- utilizing said state information while executing said executable code at said client to provide said information handling capability.

40. (Original) The method of claim 39 wherein said information handling capability comprises providing brokerage information to a user of said client computer system

41. (Original) The method of claim 40 wherein said brokerage information comprises product information and pricing.

42. (Original) The method of claim 41 wherein said product is real estate property.

43. (Original) The method of claim 41 wherein said product is chattel property.

44. (Original) The method of claim 43 wherein said product is an automobile.

45. (Original) The method of claim 39 wherein said information handling capability comprises providing scheduling information to a user of said client computer system

46. (Original) The method of claim 39 wherein said information handling capability comprises providing financial information to a user of said client computer system

47. (Original) The method of claim 39 wherein said information handling capability comprises providing transportation service information to a user of said client computer system

48. (Original) A client computer system for providing an information handling capability in a networked computer system comprising client and server computer systems, comprising

a processor,

a communications interface for connecting to a server computer system,

and

storage for executable code,

said processor executing said executable code to provide said information handling capability, and to receive from a server computer system, state information relating to a prior interaction of said client computer system and server computer system, and to use said state information while executing said executable code to provide said information handling capability.

49. (Original) A program product for a client in a networked computer system comprising client and server computer systems, the program product comprising

executable code for receiving from a server computer system further executable code for providing an information handling capability, and for receiving from a server computer system, state information relating to a prior interaction of said client computer system and server computer system, and for

using utilizing said state information while executing said executable code at said client to provide said information handling capability, and
a computer-readable media storing the executable code.

50. (Original) The program product of claim 49 wherein said media comprises a transmission type media.

51. (Original) The program product of claim 49 wherein said media comprises a storage media.

52. (Original) A method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprising the following steps executed at a server computer system:

selecting, in response to a request to provide an information handling capability by a client computer system, a service to be executed by said server computer system, from at least first and second services available to said server computer system for providing said information handling capability, and

executing said executable code in said selected service to provide said information handling capability.

53. (Original) The method of claim 52 wherein said information handling capability comprises providing brokerage information to a user of said client computer system

54. (Original) The method of claim 53 wherein said brokerage information comprises product information and pricing.

55. (Original) The method of claim 54 wherein said product is real estate property.

56. (Original) The method of claim 54 wherein said product is chattel property.

57. (Original) The method of claim 54 wherein said product is an automobile.

58. (Original) The method of claim 52 wherein said information handling capability comprises providing scheduling information to a user of said client computer system

59. (Original) The method of claim 52 wherein said information handling capability comprises providing financial information to a user of said client computer system

60. (Original) The method of claim 52 wherein said information handling capability comprises providing transportation service information to a user of said client computer system

61. (Original) A server providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprising:

a processor,

a communications interface for connecting to a client computer system,

and

storage for executable code,

said processor executing said executable code to select, in response to a request to provide an information handling capability by a client computer system, a service to be executed by said server computer system, from at least first and second services available to said server computer system for providing said information handling capability, and then executing executable code in the selected service.

62. (Original) A program product for a server in a networked computer system comprising client and server computer systems, the program product comprising

executable code for selecting, in response to a request to provide an information handling capability by a client computer system, a service to be executed by said server computer system, from at least first and second services

available to said server computer system for providing said information handling capability, and executing said executable code in said selected service to provide said information handling capability, and

a computer-readable media storing the executable code.

63. (Original) The program product of claim 62 wherein said media comprises a transmission type media.

64. (Original) The program product of claim 62 wherein said media comprises a storage media.

Evidence Appendix

None.

Related Proceedings Appendix

None.